

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**

SYSTEM STORMSEAL PTY LTD and
STORMSEAL USA, LLC,

Plaintiffs/Counterclaim Defendants,

v.

ABC SUPPLY CO., INC., MULE-HIDE
PRODUCTS CO., INC., and STRUCTURAL
WRAP, LLC,

Defendants/Counterclaim Plaintiffs.

C.A. NO. 9:22-cv-81726-AHS



**PLAINTIFFS SYSTEM STORMSEAL PTY LTD AND STORMSEAL USA, LLC'S
RESPONSES AND OBJECTIONS TO DEFENDANT STRUCTURAL WRAP, LLC'S
FIRST SET OF INTERROGATORIES TO PLAINTIFFS (NOS. 1-14)**

Pursuant to Federal Rule of Civil Procedure 26 and 33, Plaintiffs/Counterclaim Defendants System Stormseal Pty Ltd. and Stormseal USA, LLC (collectively, "Stormseal"), hereby respond and object to Defendant Structural Wrap, LLC's ("Structural Wrap") First Set of Interrogatories.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Stormseal objects to each definition and instruction to the extent it purports to expand Stormseal's discovery obligations beyond those set forth in the Federal Rules of Civil Procedure or the Local Rules for the Southern District of Florida, including but not limited to by purporting to request documents or information that would impose an undue burden on Stormseal, that are not relevant to any claim or defense at issue in this case, or that is protected by the attorney-client privilege or work product doctrine.
2. Stormseal objects to the definition of "Stormseal," "You," and "Your" as overbroad, unduly burdensome, and as implicating documents and information protected by the

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attorney- client privilege, the attorney work product doctrine, and other applicable privileges and protections. The definition is overbroad because it includes “attorneys,” “joint venturers,” and others over whom Stormseal may not exercise control or parties from whom Stormseal does not have a legal right or ability to obtain documents or information. Stormseal further objects to this definition to the extent it purports to expand any request to include documents or information that is not within the possession, custody, or control of Stormseal. Stormseal provides these responses only on behalf of System Stormseal Pty Ltd. and Stormseal USA, LLC.

3. Stormseal objects to the definition of “Stormseal Product” as vague because it purports to include “substantially similar” systems, methods, and products because the definition does not supply any basis for determining what is substantially similar.

4. Stormseal objects to the definition of “Related Patents” as overbroad, unduly burdensome, not relevant to any claim or defense, and not proportional to the needs of the case with respect to the “Structural Wrap Asserted Patents” because it purports to require Stormseal to investigate entire patent families and foreign counterparts for Structural Wrap patents that are neither at issue in the case nor relevant to any claim or defense.

5. Stormseal objects to the definition of “identify,” “identity,” and “identification” as overbroad and unduly burdensome to the extent it seeks information that is irrelevant and concerns personal information, such as a person’s home address.

6. Stormseal objects to the instructions concerning privilege logs as unduly burdensome and as going beyond the requirements for claiming privilege set forth in Fed. R. Civ. P. 26(b)(5). Stormseal objects to any logging of documents or communications that occurred after the date of Stormseal’s first cease and desist letter to Defendant Structural Wrap on May 17, 2022. Stormseal is willing to meet and confer with Defendant about the necessity for a

[REDACTED]

privilege log relating to pre-May 17, 2022 documents and communications.

GENERAL OBJECTIONS

1. Stormseal objects to each Interrogatory to the extent it is inconsistent with or attempts to impose obligations beyond those set forth in the Federal Rules of Civil Procedure, the Local Rules for the Southern District of Florida, any applicable court order, or any other applicable law or procedure.

2. Stormseal objects to each Interrogatory to the extent it seeks information that is not relevant to any claim or defense at issue in this case.

3. Stormseal objects to each Interrogatory to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, the joint-defense or common interest privilege, or any other applicable privilege or protection. Stormseal hereby asserts all such applicable privileges and protections and the inadvertent disclosure of any such privileged or protected information shall not constitute a waiver and shall be addressed consistent with the procedure set forth in Section 9 of the Stipulated Protective Order (ECF No. 50).

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

Separately, for each Stormseal Asserted Claim of each Stormseal Asserted Patent, describe all factual and legal bases supporting, refuting, or relating to Your contention that Structural Wrap infringes the Stormseal Asserted Patent, either directly or indirectly, including identifying how and where You contend each claim element is met and whether it is met literally or under the doctrine of equivalents, and all facts and legal bases supporting any allegation of direct or indirect infringement, and identify all Documents and other evidence that You contend

[REDACTED]

support Your allegations and the Persons most knowledgeable about it, including the subject matter known by each such Person.

RESPONSE TO INTERROGATORY NO. 1:

Stormseal incorporates by reference its General Objections and Objections to Definitions and Instructions set forth above. Stormseal further specifically objects to this Interrogatory as unduly burdensome to the extent it purports to require Stormseal to identify “all factual and legal bases supporting, refuting, or relating to” Stormseal’s contention that Structural Wrap infringes the Stormseal Asserted Patent. Stormseal further objects to this Interrogatory as a premature contention interrogatory to which no response should be required until relevant discovery is complete. Specifically, much of the documentary and testimonial evidence demonstrating Structural Wrap’s infringement is in the possession, custody, or control of Structural Wrap, witnesses associated with Structural Wrap, or third parties.

Stormseal further objects to this Interrogatory as unduly burdensome to the extent it seeks a narrative description of “all facts and legal bases supporting any allegation of direct or indirect infringement.” Stormseal has provided and will provide, consistent with the parties’ agreed-upon case schedule, Preliminary Infringement Contentions and Final Infringement Contentions that identify the bases for Stormseal’s contentions that Structural Wrap infringes the asserted claims of the Stormseal Asserted Patent (as that term is used in Defendant’s Interrogatories).

Subject to and without waiving the foregoing objections, Stormseal responds as follows:

Stormseal incorporates by reference Plaintiff/Counterclaim Defendant’s System Stormseal Pty Ltd. and Stormseal USA, LLC’s Initial Disclosure of Asserted Claims and Preliminary Infringement Contentions served on May 25, 2023 as well as the Exhibits and

[REDACTED]

documents included or cited therein. Stormseal further incorporates by reference any forthcoming expert report on infringement, which will be served in accordance with the deadlines set forth in the Court's Order Setting Trial and Pre-Trial Schedule (ECF No. 51) or any future modifications of that Order.

Stormseal further identifies Larry Bond, Spiro Naos, and Chris Mouriz as the persons most knowledgeable about Structural Wrap's infringement. Mr. Bond, Mr. Naos, and Mr. Mouriz are all employed by Defendant.

Stormseal reserves the right to amend or supplement this response as its investigation continues or in response to the receipt of additional or new information learned in discovery or otherwise.

INTERROGATORY NO. 2:

Separately for each Stormseal Asserted Claim, state the priority date and describe the basis for Your priority claim, including the date on which the claimed subject matter was first conceived; first observed experimentally; first reduced to practice; first described in a Document; first disclosed to a Person other than the inventors; first offered for sale; first sold; first sold or offered for sale in the United States; first described in a printed publication anywhere in the world; and first publicly used, disclosed, or available in the United States. Identify all supporting Documents, samples, investigations, tests, measurements, analyses, opinions, and testimony supporting each date and the three Persons most knowledgeable about the information requested in this interrogatory.

RESPONSE TO INTERROGATORY NO. 2:

Stormseal incorporates by reference its General Objections and Objections to Definitions and Instructions set forth above. Stormseal further objects to this Interrogatory as vague, unduly

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burdensome, and compound to the extent it requests both an explanation of Stormseal's claimed priority date and separately requests information about dates of conception, reduction to practice and the like. Stormseal interprets this Interrogatory as seeking information about dates of conception and reduction to practice only to the extent Stormseal relies on such dates to support a priority claim.

Subject to and without waiving the foregoing objections, Stormseal responds as follows:

Stormseal contends that all of the Asserted Claims are entitled to a priority date of at least as early as June 2, 2008, based on the filing date of Australian application 2008202416.

Stormseal reserves the right to amend or supplement this response as its investigation continues or in response to the receipt of additional or new information learned in discovery or otherwise.

INTERROGATORY NO. 3:

Separately, for each Stormseal Asserted Claim, describe all factual and legal bases supporting, refuting, or relating to Your contention(s) that the Stormseal Asserted Claim is not invalid, including an identification of each claim element You contend is absent from any Prior Art reference asserted by Structural Wrap and the reason You contend such element is absent, and describe in detail all of the factual and legal bases for any such contention, and identify all Documents and other evidence that You contend support Your allegations and the Persons most knowledgeable about it, including the subject matter known by each such Person.

RESPONSE TO INTERROGATORY NO. 3:

Stormseal incorporates by reference its General Objections and Objections to Definitions and Instructions set forth above. Stormseal further specifically objects to this Interrogatory as a premature contention interrogatory directed to Structural Wrap's contentions as to invalidity of

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Stormseal Asserted Claims before Structural Wrap has served its invalidity contentions in accordance with the Parties' agreed-to schedule for such disclosures and before discovery on that issue is complete. Stormseal further specifically objects to the term "Prior Art" as vague and ambiguous since Structural Wrap has not asserted said Prior Art references.

Stormseal further objects to this Interrogatory as overbroad and unduly burdensome because it seeks to shift the burden to Stormseal to establish Defendant's invalidity arguments, since Defendant has not set out any grounds for invalidity.

Subject to and without waiving the foregoing objections, Stormseal will not provide a response to this Interrogatory until and unless Defendant provides Invalidity Contentions in accordance with the parties' agreed-upon schedule for exchanging such contentions. After reviewing Defendant's invalidity contentions, Stormseal will supplement this response if necessary.

Stormseal reserves the right to amend or supplement this response as its investigation continues or in response to the receipt of additional or new information learned in discovery or otherwise.

INTERROGATORY NO. 4:

Separately, for each Stormseal Asserted Claim, to the extent Stormseal contends that objective indicia (for example, commercial success, long-felt need, failed attempts of others to solve, initial skepticism, industry recognition and praise, copying, or imitation by others), including nexus to the Stormseal Asserted Patent, support the nonobviousness of the Stormseal Asserted Claim, describe all factual and legal bases supporting, refuting, or relating to that contention and Identify all Documents and other evidence that Relate to Your contention and the Persons most knowledgeable it, including the subject matter known by such Person.

[REDACTED]

RESPONSE TO INTERROGATORY NO. 4:

Stormseal incorporates by reference its General Objections and Objections to Definitions and Instructions set forth above. Stormseal further objects to this Interrogatory as a premature contention interrogatory to which no response should be required until relevant discovery is complete.

Stormseal further specifically objects to this Interrogatory as unduly burdensome to the extent it purports to require Stormseal to identify all factual and legal bases supporting, refuting, or relating to” the nonobviousness of the Stormseal Asserted Claim. Stormseal will provide a response that provides reasonable detail concerning Stormseal’s contentions and reserves the right to rely on additional documents, evidence, or testimony to support its arguments concerning objective indicia of nonobviousness.

Subject to and without waiving the foregoing objections, Stormseal responds as follows:

Stormseal incorporates by reference its Complaint (ECF No. 1) in this Action, ¶¶2-3, 20-100.

Objective indicia of nonobviousness “play a critical role in the obviousness analysis.” *Leo Pharma. Prods., Ltd. v. Rea*, 726 F.3d 1346, 1358 (Fed. Cir. 2013). Objective indicia, such as commercial success, long-felt need, copying, unexpected and superior results, wide spread acceptance and praise in the field, and initial skepticism “provide objective evidence of how the patented device is viewed in the marketplace, by those directly interested in the product.” *Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1370 (Fed. Cir. 2012).

Stormseal contends that its Stormseal temporary roofing system, and the methods for installing it, were first developed in 2008 in Australia following a devastating hailstorm that caused hundreds of millions in damage to homes and businesses. The Stormseal solution came

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after a long-felt need for a better temporary roof covering than the existing practice of securing loose-fitting tarpaulins using sandbags or construction material. Tarps provided a poor solution since they were not suitable for particularly wet conditions and were also easily damaged or blown off by high winds. The Stormseal temporary roofing solution solved this problem by creating a film and method of installing it that allowed the covering to withstand high winds while keeping out moisture. Indeed, Structural Wrap itself touts the ability of shrinkwrap roof film installed in accordance with Stormseal's methods to withstand punishing winds. *See, e.g.*, SW0000830

Since the development of the Stormseal temporary roofing system, Stormseal has had commercial success both outside and inside the United States, and received numerous awards and industry praise. Such praise and success include:

- Being featured on ABC's program "The New Inventors" in Australia in 2008;
- obtaining a commercialization grant from the Australian government in 2016;
- being named number 1 on the Anthill Magazine's list of the "Smart 100" companies in Australia in 2017;
- winning first prize for Global Social Impact in the Australian Technologies Competition in October 2019 (<https://stormseal.com/au/global-social-impact-winner/>);
- being named in Fast Company's annual list of the world's most innovative companies for 2020 (<https://stormseal.com/au/worlds-most-innovative-companies-2020/>);
- being selected by the U.S. Army Corps of Engineers to participate in a pilot program for storm damaged properties after hurricane Ida in 2021. Stormseal

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wrote the specification for the program;

- being chosen as a semi-finalist in the QBE Accelicity Resilience Challenge in June 2022.

Stormseal has also had commercial success training installers on its methods across the United States, and has a network of Accredited Stormseal Installers who purchase and use the product and installation methods.

In addition, discovery is expected to reveal that others, including Structural Wrap, have copied Stormseal's innovative temporary roofing solution and installation methods.

Stormseal reserves the right to amend or supplement this response as its investigation continues or in response to the receipt of additional or new information learned in discovery or otherwise.

INTERROGATORY NO. 5:

To the extent Stormseal contends that Structural Wrap willfully infringed or willfully infringes any Stormseal Asserted Patent, describe in detail all facts supporting, refuting or Relating to Your contention that Structural Wrap willfully infringed or willfully infringes such Stormseal Asserted Patent, including when and how Stormseal asserts Structural Wrap had actual notice of the Stormseal Asserted Patent and Stormseal's allegations of infringement, and how Structural Wrap's conduct allegedly has been willful. Your response shall identify the three individuals employed by Stormseal most knowledgeable about the information requested in this interrogatory and any Documents Related thereto.

RESPONSE TO INTERROGATORY NO. 5:

Stormseal incorporates by reference its General Objections and Objections to Definitions and Instructions set forth above. Stormseal further objects to this Interrogatory as a premature

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contention interrogatory to which no response should be required until relevant discovery is complete.

Stormseal further specifically objects to this Interrogatory as unduly burdensome to the extent it purports to require Stormseal to identify “all factual and legal bases supporting, refuting, or relating to” Stormseal’s contention that Structural Wrap willfully infringed or willfully infringes the Stormseal Asserted Patent. Stormseal will provide a response that provides reasonable detail concerning Stormseal’s contentions and reserves the right to rely on additional documents, evidence, or testimony to support its arguments.

Subject to and without waiving the foregoing objections, Stormseal responds as follows:

Structural Wrap has had knowledge of the ’484 Patent since at least May 17, 2022. On May 17, 2022, Stormseal wrote to Structural Wrap informing it of the ’484 Patent and Structural Wrap’s infringement. Nonetheless, Structural Wrap has continued to directly infringe the ’484 Patent and to actively encourage direct infringement of the ’484 Patent. Direct infringement of the ’484 Patent has occurred as a result of Structural Wrap’s inducement. Direct infringers include, but are not limited to, contractors or other licensed installers of the Accused Film.

Accordingly, Structural Wrap’s infringement has been willful since at least May 17, 2022.

Stormseal reserves the right to amend or supplement this response as its investigation continues or in response to the receipt of additional or new information learned in discovery or otherwise.

INTERROGATORY NO. 6:

Identify the complete factual and legal bases for Your damages theories in this case, including whether and how damages should be assessed against Stormseal and whether and how

[REDACTED]

Stormseal has suffered damages, including a full description of the type and amount of damages claimed by Stormseal, the manner or method of the calculation of such damages, and the identity of all Documents referred to in calculating such damages and Persons knowledgeable about those Documents. If Stormseal contends that it is entitled to damages calculated as a reasonable royalty, Your answer should include the royalty rate used, an explanation of why that rate is reasonable, including all facts that You allege support that rate, and the royalty base for calculating such royalties.

RESPONSE TO INTERROGATORY NO. 6:

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INTERROGATORY NO. 7 [INTERROGATORY NO. 8]:

For each Structural Wrap Asserted Patent, describe all facts and circumstances surrounding Stormseal's awareness over time of the Structural Wrap Asserted Patent and/or Related Patents and any possible infringement by Stormseal of the same, including without limitation identifying the date(s), circumstances, and Person(s) involved, including their department, title, role, and employer, through which Stormseal first learned of the Structural Wrap Asserted Patent and/or Related Patents, including the application or publication(s) for the Structural Wrap Asserted Patent or any part or portion thereof and/or Related Patents, including the applications or publications for the Related Patents or any part or portion thereof; any formal or informal analysis or discussion at any point in time of the potential relevance of the Structural

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Category	Value (approximate)
1	0.8
2	1.0
3	0.9
4	0.95
5	0.98
6	0.4

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

INTERROGATORY NO. 9 [INTERROGATORY NO. 10]:

For each Structural Wrap Asserted Claim of each Structural Wrap Asserted Patent, describe all factual and legal bases for Your contention that You do not infringe that Structural Wrap Asserted Claim, either directly or indirectly, including identifying how and where You contend each claim element is not met and whether it is not met literally or under the doctrine of equivalents, including identifying all Persons with knowledge of the factual bases and all Documents that refer to or Relate to those facts.

RESPONSE TO INTERROGATORY NO. 9 [INTERROGATORY NO. 10]:

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INTERROGATORY NO. 11 [INTERROGATORY NO. 12]:

For the Stormseal Product, describe and Identify Stormseal's sales, profits, and revenue by month by country, the number of units of the Stormseal Product or component(s) of the Stormseal Product manufactured in the United States by month regardless of country of sale, the number of units of the Stormseal Product or component(s) of the Stormseal Product imported into the United States by month, the location(s) of manufacturing in the United States and outside of the United States, Stormseal's manufacturing and marketing capability to exploit demand for the Stormseal Product, the number of units of component(s) of the Stormseal Product originating in the United States that are exported and used outside of the United States, and the three individuals most knowledgeable about these facts and Documents Related thereto.

RESPONSE TO INTERROGATORY NO. 11 [INTERROGATORY NO. 12]:

[REDACTED]

[REDACTED]

A series of horizontal black bars of varying lengths and positions, resembling a barcode or a stylized text representation. The bars are arranged in a vertical sequence, with some starting from the left edge and others being indented. The lengths vary significantly, with some bars spanning most of the width and others being much shorter. The overall effect is a rhythmic pattern of solid black shapes against a white background.

INTERROGATORY NO. 12 [INTERROGATORY NO. 13]:

Identify and describe all in-bound and out-bound licenses and prospective licenses, even if not executed, and licensing efforts, Relating to any of the Stormseal Products, the subject matter of any Stormseal Asserted Patent, temporary roofing or methods Relating thereto, or the subject matter of any Structural Wrap Asserted Patent, including Identifying all such licenses that You contend would be comparable to a license between the parties if Stormseal is found to be liable for infringement of a Structural Wrap Asserted Claim or if Structural Wrap is found to

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For the Stormseal Product and for each component of the Stormseal Product, describe how and by whom it is manufactured, sold, offered for sale, or used in the United States or

[REDACTED]

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INTERROGATORY NO. 14 [INTERROGATORY NO. 15]:

For the Stormseal Product, describe the support and information provided by Stormseal to potential and actual customers, either before or after the purchase of the Stormseal Product or components thereof, including without limitation instructions and/or training to customers, product materials, marketing materials, answers to customer questions, troubleshooting and testing the Stormseal Product with customers. Include in Your description an identification of the



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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2023 copies of the foregoing were caused to be served upon the following by electronic mail:

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